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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 230419-0105]**

**RIN 0648-BM06**

**Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 13**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS is proposing to approve and implement specifications submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 13 to the Monkfish Fishery Management Plan. This action would set monkfish specifications for fishing years 2023 through 2025, adjust annual Days-At-Sea allocations, and increase the minimum gillnet mesh size for vessels fishing on monkfish Days-At-Sea. This action is needed to establish allowable monkfish harvest levels and management measures that will prevent overfishing and reduce bycatch.

**DATES:** Public comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2023-0013, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0013 in the Search Box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](https://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the Framework 13 document, including the Regulatory Flexibility Act Analysis and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the Internet at: <https://www.nefmc.org/management-plans/monkfish>.

**FOR FURTHER INFORMATION CONTACT:** Spencer Talmage, Fishery Policy Analyst, (978) 281-9232.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management

Councils. The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through Southern New England and into the Mid-Atlantic Bight to North Carolina.

The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the target total allowable landings (TAL) and the annual catch target (ACT), which is the TAL plus an estimate of expected discards, for each management area.

## **Proposed Measures**

### *1. Specifications*

We are proposing to adjust the NFMA and SFMA quotas for fishing years 2023 through 2025 (Table 1), based on the Councils' recommendations.

On October 26, 2022, the New England Council's Scientific and Statistical Committee (SSC) recommended acceptable biological catch (ABC) levels in the NFMA and SFMA for fishing years 2023-2025 based on the I-smooth method applied during the 2022 Monkfish Management Track Assessment. The I-smooth method is a model-free method for developing catch advice that applies a trawl-survey derived multiplier to recent 3-year catch, and was selected for use for monkfish in the absence of an analytic model for either stock. At its December 2022 meeting, the New England Council delayed final action on Framework 13 and remanded the ABC recommendations back to the SSC

for further consideration. Specifically, the New England Council requested that the SSC consider setting ABCs for the FY 2023-2025 as the average of the I-smooth approach and a modified I-smooth that applies the trawl survey multipliers to the recent ABCs as an alternative method for determining catch advice. The Mid-Atlantic Council concurred with the New England Council's delay and remand during its December 2022 meeting. On January 20, 2023, the SSC met, considered the New England Council requested method for determining catch advice, and made an updated ABC recommendation. On January 25, 2023, The New England Council approved the updated specifications for 2023-2025, and the Mid-Atlantic Council did the same on February 7, 2023. The Councils' recommendations are based on the results of the 2022 assessment update and the January 20, 2023, recommendations of the New England Council's SSC.

The Council recommended specifications include a 25-percent decrease in the ABC and annual catch limit (ACL) in the NFMA and a 52-percent decrease in the ABC and ACL in the SFMA, when compared to the 2020-2022 specifications. Discards, calculated using the median of the most recent 10 years of data, decreased in both areas, but more significantly in the SFMA. After accounting for discards, the Councils recommend a 20-percent decrease in the TAL for the NFMA and a 41-percent decrease in the TAL for the SFMA. Despite these changes, both Councils recommend no adjustments to day-at-sea allocations or landing limits.

**Table 1 -- Proposed Framework 13 Specifications**

Catch Limits	Northern Area		Southern Area	
	Proposed 2023-2025 Specs (mt)	Percent Change from 2022*	Proposed 2023-2025 Specs (mt)	Percent Change from 2022*
Acceptable Biological Catch	6,224	-25	5,861	-52
Annual Catch Limit	6,224	-25	5,861	-52
Management Uncertainty (3%)	187	-	176	-
Annual Catch Target (Total Allowable Landings + discards)	6,038	-25	5,685	-52
Expected Discards	729	-51	2,205	-64
Total Allowable Landings	5,309	-20	3,481	-41

\*Percent change from the previously approved 2020-2022 specifications

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. The regulations at 50 CFR 648.96(d) require the Councils to revise the monkfish ACT if it is determined that the annual catch limit was exceeded in any given year, or for NMFS to revise the monkfish ACT if the Councils fail to take action. We would publish a notice in the *Federal Register* of any revisions to these proposed specifications if an overage occurs. We expect, based on preliminary 2022 year-end accounting, that no adjustment is necessary for fishing year 2023. We will provide notice of the 2024 and 2025 quotas prior to the start of each respective fishing year.

## *2. Annual DAS Allocations*

Under current regulations, each vessel possessing a limited access monkfish permit is annually allocated a total of 46 DAS, of which up to 37 may be used in the SFMA. This total allocation is reduced by an amount necessary to reserve 500 DAS from the entire fishery for the Monkfish Research Set-Aside (RSA) Program reach year. In addition, vessels may carryover up to 4 unused DAS from one fishing year to the next.

The amount of DAS ultimately available to a vessel for a given fishing year is the sum of the initial allocation, plus any eligible DAS carried over and less the annual RSA deduction.

To ensure that the fishery is able to meet, but not exceed, the new TALs proposed for 2023-2025, both Councils recommended that Framework 13 include a set of changes to the yearly DAS allocation. First, the initial allocation of DAS that could previously be used in any area would be split into separate DAS allocations for each of the NFMA and SFMA. The Councils recommended that each limited access vessel be allocated 35 DAS for the NFMA and 37 DAS for the SFMA. Second, the 37 DAS restriction for the SFMA would be removed and replaced with a new limit that would restrict vessels from using more than 46 allocated DAS total during each fishing year. Finally, the annual deduction of RSA DAS from each limited access vessel's DAS allocation would be applied proportionally to the separate DAS allocations for the NFMA and SFMA. The DAS carryover provisions would not be changed by this action; vessels would be eligible for up to 4 carryover DAS in each fishing year that would not count against the allocation limits in either area or the general allocated DAS usage restriction.

### *3. Minimum Gillnet Mesh Size Increase*

To reduce bycatch of small monkfish, both Councils recommended an increase in the minimum gillnet mesh size for vessels on a monkfish DAS or fishing in the Gulf of Maine/Georges Bank Dogfish and Monkfish Gillnet Fishery Exemption from 10 inches (25.4 cm) to 12 inches (30.5 cm) diamond mesh. This change would go into effect at the beginning of May 1, 2026. The additional time would allow any affected vessels not already using the larger mesh size time to make the transition as part of the normal

operation and replacement of worn nets. We expect that the delayed implementation will reduce the overall cost of this measure to industry.

#### *4. Regulatory Corrections*

Using our authority under section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), we are clarifying the regulation at § 648.92(b)(2)(iii)(B) that describes the interaction between the Northeast (NE) multispecies DAS leasing program at § 648.82(k) and monkfish DAS balances for category C, D, F, G, or H vessels that choose to lease NE multispecies DAS.

When a category C, D, F, G, or H vessel leases NE multispecies DAS to another vessel(s), a certain number of monkfish DAS owned by the lessor vessel become unavailable for use. The current regulatory text does not clearly explain the method used to determine the number of monkfish DAS owned by the lessor vessel that may become unavailable in such transactions. In addition, the current numerical example does not match preceding written examples, and may be confusing.

The proposed changes to § 648.92(b)(2)(iii)(B) are intended to more clearly describe the interaction between the NE multispecies DAS leasing program and monkfish DAS balances for category C, D, F, G, or H vessels that choose to lease NE multispecies DAS. The proposed changes do not substantively change the way in which monkfish DAS balances are affected by leases of NE multispecies DAS.

#### **Classification**

NMFS is issuing this rule pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act, which provide specific authority for implementing this action. Section 304(b)(1)(A) authorizes NMFS to initiate

an evaluation of proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and other applicable law, and if that determination is affirmative, publish the regulations in the *Federal Register* for public comment.

Additionally, this rule contains a regulatory correction being issued pursuant to MSA section 305(d) that is necessary to carry out the Monkfish FMP. The correction is necessary to carry out the Monkfish FMP because it clarifies regulations describing how monkfish DAS are managed in relation to the Northeast multispecies DAS leasing program. A clear description of this process is necessary for the public and industry to understand it and make decisions regarding to management of DAS. Though this correction is being included in this proposed rule to implement Framework 13, it is not part of Framework 13 as approved by the Councils. The lack of clarity in the current regulatory text was discovered after the approval of Framework 13 by the Councils, and could not be included. Making this correction pursuant to 305(d) authority allows for the correction to be implemented more quickly than otherwise possible. Though the correction is consistent with the FMP and review was not necessary, the Council did receive the opportunity to review and deem the change to the regulatory text necessary and appropriate.

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Monkfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

NMFS finds that a 15-day comment period for this action provides a reasonable opportunity for public participation in this action, while also ensuring that the final



specifications are in place as close to start of the monkfish fishing year on May 1, 2023, as possible. This action was jointly developed by the New England and Mid-Atlantic Fishery Management Councils as part of the annual Framework Adjustment process, during which final action by the Councils was expected in December 2022. However, the Council process was delayed in order to provide time for the New England Fishery Management Council's Scientific and Statistical Committee to re-evaluate its ABC recommendations for 2023 through 2025. This action could not be proposed sooner as a result of the delay in this process. Stakeholder and industry groups have been involved with the development of this action and have participated in public meetings throughout the past year. A prolonged comment period and subsequent potential delay in implementation would be contrary to the public interest, as it would extend the amount of time in which no specifications are in place for fishing year 2023, rather than replacing them with the quotas proposed in this rule, which are based on the best available science. The fishery may continue to operate under current DAS and trip limit regulations without specifications in fishing year 2023, but an extended delay could lead to confusion.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this action, if adopted, would not have a significant economic effect on a substantial number of small entities.

As outlined in the preamble of this rule, the purpose of this action is to implement Framework 13 to the Monkfish FMP. Framework 13 would set monkfish specifications

for fishing years 2023-2025, make changes to the yearly allocation of DAS to vessels issued limited access monkfish permits, and increase the minimum mesh size for gillnet vessels from 10 to 12 inches. The specifications in this rule include a TAL for the NFMA in fishing years 2023 through 2025 that is 20 percent lower the TAL in fishing years 2020 through 2022 and a TAL for the SFMA in fishing years 2023 through 2025 that is 41 percent lower than the TAL in fishing years 2020 through 2022. This framework is needed to establish allowable monkfish harvest levels that will prevent overfishing.

We issued 492 limited access monkfish permits and 1,198 open access monkfish permits as of June 1, 2022, for a total of 1,692 permits potentially regulated by this action. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. The current ownership data set is based on calendar year 2021 permits and contains gross sales associated with those permits for calendar years 2019 through 2021. Ownership data collected from permit holders indicate there are 1,207 distinct business entities that held at least one permit that could be directly regulated by this proposed action in 2021. Of these 1,207 entities, 804 are commercial fishing entities, and 137 are for-hire entities.

For the purposes of the Regulatory Flexibility Act, we define a small business in the commercial harvesting sector as a firm with receipts (gross revenues) of up to \$11 million for commercial fishing businesses. Of the 804 commercial fishing entities, 793 are categorized as small entities and 11 are categorized as large entities, per the NOAA Fisheries guidelines. All 137 for-hire entities are categorized as small businesses. In 2021, 266 of the 1,207 entities had zero monkfish revenue.

This action is expected to have minimal economic impacts on both large and small entities. Although the proposed action would set TALs lower than what was in place in fishing year 2021, actual landings in that year were far less than the TALs proposed in this action. Because we expect landings to remain constant relative to fishing year 2021, we expect TAL reductions to pose no cost on the fleet relative to 2021 activity. Additionally, the proposed DAS allocation changes are expected to constrain only four vessels based on previous fishing activity; the vast majority of small firms are not impacted by the proposed DAS allocation change. Finally, the increased mesh size regulations do not become effective until 2026 (after the final year of the specifications in this action) and are estimated to impact eight vessels. The delay in implementation allows affected vessels to replace their nets as they become worn out as part of regular net replacement. This cost thus would not be directly tied to the proposed mesh size regulation, but instead is a regular fishing operation cost.

This action is not expected to have a significant impact on a substantial number of small entities. Nearly all monkfish entities (99 percent) are considered small entities. Regulated small entities identified in this analysis are expected to experience no impacts. No impacts are expected to the 12 regulated large entities, as they have little dependence on monkfish revenue. Small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

## List of Subjects in 50 CFR Part 648

Fisheries, Fishing.

Dated: April 19, 2023.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Amend § 648.10, by revising paragraph (g)(3)(ii) to read as follows:

#### **§ 648.10 VMS and DAS requirements for vessel owners/operators.**

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(ii) An operator of a vessel issued both a NE multispecies permit and a monkfish permit are authorized to change their DAS declaration from a NE multispecies Category A DAS to a monkfish DAS, while remaining subject to the to the NE multispecies DAS

usage requirements under § 648.92(b)(1)(iv), during the course of a trip, as provided at § 648.92(b)(1)(vi)(A).

\* \* \* \* \*

3. Amend § 648.14, by revising paragraphs (m)(2)(i) and (m)(3)(ii) to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(m) \* \* \*

(2) \* \* \*

(i) Fish with or use nets with mesh size smaller than the minimum mesh size specified in § 648.91(c) while fishing under a monkfish DAS, except as authorized by § 648.91(c)(1)(v).

\* \* \* \* \*

(3) \* \* \*

(ii) Fail to comply with the NFMA or SFMA requirements specified at § 648.92(b)(1)(v)

\* \* \* \* \*

4. Amend § 648.80, by revising paragraph (a)(13)(i)(B) to read as follows:

**§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(a) \* \* \*

(13) \* \* \*

(i) \* \* \*

(B) Minimum Mesh Size.

(I) Through April 30, 2026, all gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(2) Starting May 1, 2026, all gillnets must have a minimum mesh size of 12-inch (30.5-cm) diamond mesh throughout the net.

\* \* \* \* \*

5. Amend § 648.91, by revising paragraphs (c)(1)(iii) and (iv) and adding (c)(1)(v) and (vi) to read as follows:

**§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) *Gillnets while on a monkfish DAS for fishing years 2023, 2024, and 2025.*

Until April 30, 2026, the minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) diamond mesh, unless the vessel meets one of the exceptions in paragraph (c)(1)(v) of this section.

(iv) *Gillnets while on a monkfish DAS from fishing year 2026 and beyond.*

Starting May 1, 2026, the minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 12-inch (30.5-cm) diamond mesh, unless the vessel meets one of the exceptions in paragraph (c)(1)(v) of this section.

(v) *Exceptions from the minimum mesh size for gillnets on a monkfish DAS.* A vessel fishing with gillnet gear under a monkfish DAS is subject to the minimum mesh size as defined in paragraph (c)(1)(iii) or (c)(1)(iv) of this section, unless:

(A) The owner or operator of a limited access NE multispecies vessel fishing under a NE multispecies category A DAS with gillnet gear in the NFMA changes the vessel's DAS declaration to a monkfish DAS through the vessel's VMS unit during the course of the trip in accordance with the provisions specified under § 648.92(b)(1)(vi);

(B) A vessel issued a Category C or D limited access monkfish permit is fishing under both a monkfish and NE multispecies Category A DAS in the SFMA using roundfish gillnets, as defined at § 648.2, with 6.5-inch (16.5-cm) diamond mesh;

(C) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Mid-Atlantic Exemption Area using roundfish gillnets with a minimum mesh size of 5 inches (12.7 cm) in accordance with the provisions specified under § 648.80(c)(5); or

(D) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Southern New England Dogfish Exemption Area using roundfish gillnets with a minimum mesh size of 6 inches (15.2 cm) in accordance with the provisions specified under § 648.80(b)(7).

(vi) *Authorized gear while on a monkfish and scallop DAS.* Vessels issued a Category C, D, G, or H limited access monkfish permit and fishing under a monkfish and scallop DAS may only fish with and use a trawl net with a mesh size no smaller than that specified in paragraph (c)(1)(i) of this section.

\* \* \* \* \*

6. Amend § 648.92, by revising paragraphs (b)(1)(i) through (v), adding (b)(1)(vi), revising paragraphs (b)(2)(ii) and (b)(2)(iii)(B), and revising paragraph (c)(1)(ii)(A) to read as follows:

**§ 648.92 Effort-control program for monkfish limited access vessels.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *DAS allocations.* Each vessel issued a limited access monkfish permit will be allocated 35 monkfish DAS each fishing year that may be used only in the Northern Fishery Management Area as defined in § 648.91(a). Each vessel issued a limited access monkfish permit will also be allocated 37 monkfish DAS each fishing year that may be used only in the Southern Fishery Management Area as defined in § 648.91(b). The annual allocation of monkfish DAS to each vessel issued a limited access monkfish permit in the NFMA and SFMA shall be reduced by the amount calculated in paragraph (b)(1)(iii) of this section for the research DAS set-aside. All DAS must be used in accordance with the provisions of this paragraph (b) unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(ii) of this section.

(ii) *Offshore fishery program DAS allocation.* A vessel issued a Category F permit, as described in § 648.95, shall be allocated a prorated number of monkfish DAS as specified in § 648.95(g)(2).

(iii) *Research DAS set-aside.* A total of 500 DAS will be set aside and made available for cooperative research programs as described in paragraph (c) of this section.



These DAS shall be deducted proportionally from the DAS allocated to each vessel issued a limited access monkfish permit by the process prescribed in this paragraph (b)(1)(iii).

(A) *Calculating the total per vessel DAS deduction.* The total per vessel DAS deduction will be calculated as the quotient of 500 divided by the total number of limited access permits issued in the previous fishing year.

(B) *Calculating the per vessel DAS deduction for the NFMA and SFMA.* The total vessel DAS deduction will be distributed proportionally to the DAS for the NFMA and SFMA allocated to each vessel issued a monkfish limited access permit, as specified in paragraph (b)(1)(i) of this section. To determine the per-vessel deduction from the NFMA DAS allocation, the total per vessel deduction will be multiplied by the quotient of the NFMA DAS allocation divided by the total number of DAS allocated to each monkfish limited access vessel. To determine the per-vessel deduction from the SFMA DAS allocation, the NFMA deduction will be subtracted from the total per vessel deduction.

(C) *Example.* If in the current year, each vessel is allocated 30 NFMA DAS and 20 SFMA DAS, then the total vessel DAS allocation is 50 DAS. In this example, 625 limited access monkfish permits were issued in the previous year. Dividing 500 by the 625 permits equals a total per-vessel DAS deduction of 0.8 DAS. Dividing the NFMA allocation of 30 DAS by the total DAS allocation of 50 DAS equals 0.6. Multiplying 0.6 by 0.8 equals an NFMA DAS deduction of 0.48, which is rounded to 0.5. Subtracting the 0.5 NFMA DAS deduction from the total per vessel deduction of 0.8 results in an SFMA

DAS deduction of 0.3 DAS. The result of is that each limited access monkfish vessel would be allocated 29.5 NFMA DAS and 19.7 SFMA DAS.

(iv) *General DAS usage restrictions.* A vessel issued a limited access monkfish permit may not use more than 46 allocated monkfish DAS in a fishing year. Unless otherwise specified in paragraph (b)(2) of this section or under this subpart F, a vessel issued a limited access NE multispecies or limited access Atlantic sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized.

(v) *DAS declaration requirements.* Each vessel issued a limited access monkfish permit that intends to fish under a monkfish DAS must declare that it will fish in either the NFMA or SFMA through the vessel call-in system or VMS prior to the start of each trip. A vessel intending to fish for, fishing for, possessing, or landing monkfish under a NE multispecies, scallop, or monkfish DAS under the management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel that is not required to and does not possess a VMS unit must declare its intent to fish in the NFMA by obtaining a letter of authorization from the Regional Administrator, which is effective for a period of not less than 7 days, and fish exclusively in the NFMA during the effective period of that letter of authorization. A vessel that has not declared into the NFMA under this paragraph (b)(1)(v) shall be presumed to have fished in the SFMA, and shall be subject to the requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in § 648.94(e).

(vi) *Monkfish Option provision and declaration requirements.* Any limited access NE multispecies vessel fishing on a sector trip or under a NE multispecies Category A DAS in the NFMA, and issued an LOA as specified in paragraph (b)(1)(v) of this section, may change its DAS declaration to a monkfish DAS through the vessel's VMS unit during the course of the trip after leaving port, but prior to crossing the VMS demarcation line upon its return to port or leaving the NFMA, if the vessel exceeds the incidental catch limit specified under § 648.94(c).

(A) Vessels that change their DAS declaration from a NE multispecies Category A DAS to a monkfish DAS during the course of a trip remain subject to the NE multispecies DAS usage requirements (*i.e.*, use a NE multispecies Category A DAS in conjunction with the monkfish DAS) described in paragraph (b)(2)(iv) of this section.

(B) Gillnet vessels that change their DAS declaration in accordance with this paragraph (b)(1)(vi) are not subject to the gillnet minimum mesh size restrictions found at § 648.91(c)(1)(iii) and (iv), but are subject to the smaller NE multispecies minimum mesh requirements for gillnet vessels found under § 648.80 based upon the NE Multispecies Regulated Mesh Area in which the vessel is fishing.

(2) \* \* \*

(ii) *Monkfish-only DAS.* When a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies DAS permit has an allocation of NE multispecies Category A DAS, specified under § 648.82(d)(1), that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel shall be allocated “monkfish-only” DAS equal to the difference between the number of its allocated monkfish DAS and the number of its allocated NE

multispecies Category A DAS at the start of a fishing year. For example, if a vessel issued a limited access monkfish Category D permit is allocated 30 monkfish DAS for use in the Northern Fishery Management Area, 20 monkfish DAS for use in the Southern Fishery Management Area, and 26 NE multispecies Category A DAS, it would have 24 monkfish-only DAS at the start of each fishing year. The available balance of monkfish-only DAS may vary throughout the fishing year based upon monkfish-only DAS usage and the acquisition or relinquishment of NE multispecies DAS under the NE Multispecies DAS Leasing Program, as specified in paragraph (b)(2)(iii) of this section. A vessel issued a limited access monkfish Category C, D, F, G, or H permit may use monkfish-only DAS without the concurrent use of a NE multispecies DAS at any time throughout the fishing year, regardless of the number of NE multispecies Category A DAS available. When fishing under a monkfish-only DAS, the vessel must fish under the regulations pertaining to a limited access monkfish Category A or B permit, as applicable, and may not retain any regulated NE multispecies. For example, a vessel issued a limited access monkfish Category C permit must comply with the monkfish landing limits applicable to a Category A monkfish permit when fishing under a monkfish-only DAS.

(iii) \* \* \*

(B) A vessel issued a limited access monkfish Category C, D, F, G, or H permit may forfeit some of its monkfish DAS, if it leases NE multispecies DAS to another vessel(s), pursuant to § 648.82(k). The number of monkfish DAS forfeited by a vessel depends on its balance of Monkfish and NE multispecies DAS at the time of the lease. Any forfeited monkfish DAS will be deducted proportionally between the DAS allocated

to the vessel for use in the Northern Fishery Management Area and Southern Fishery Management Area in paragraph (b)(1)(i) of this section.

(1) If the vessel's unused monkfish DAS balance is greater than or equal to its unused NE multispecies DAS balance, at the time of the lease, then the vessel will forfeit an amount of monkfish DAS equal to the number of NE multispecies DAS being leased to another vessel. For example, if a vessel has 40 monkfish DAS and 30 NE multispecies DAS and it leases 10 NE multispecies DAS in accordance with § 648.82(k), then, as part of the lease, the vessel would forfeit 10 monkfish DAS and be left with 30 monkfish DAS and 20 multispecies DAS.

(2) If the vessel's unused monkfish DAS balance is less than its unused NE multispecies DAS balance, at the time of lease, then the vessel will forfeit an amount of monkfish DAS equal to the number of NE multispecies DAS being leased minus the difference between the vessel's unused NE multispecies DAS balance and the vessel's unused monkfish DAS balance. If the number of NE multispecies DAS being leased is less than the difference between the vessel's unused NE multispecies DAS balance and the vessel's unused monkfish DAS balance, then no monkfish DAS are forfeited. For example, if a vessel has 25 monkfish DAS and 30 NE multispecies DAS at the time of the lease, and it leases 10 NE multispecies DAS, the vessel would forfeit 5 monkfish DAS ( $10 \text{ leased} - [30 \text{ NE multispecies DAS} - 25 \text{ monkfish DAS}] = 5 \text{ forfeited monkfish DAS}$ ). If, however, the vessel has 25 monkfish DAS and 40 NE multispecies and the vessel leases 10 NE multispecies DAS, it would not forfeit any monkfish DAS ( $10 \text{ leased NE multispecies DAS} - [40 \text{ NE multispecies DAS} - 25 \text{ monkfish DAS}] = -5$ . The number of DAS forfeited cannot be negative, so 0 DAS are forfeited).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) Each panel member shall recommend which research proposals should be authorized to utilize the research DAS set aside in accordance with paragraph (b)(1)(iii) of this section, based on the selection criteria described in the RFP.

\* \* \* \* \*

7. In § 648.94, remove and reserve paragraph (f).

8. Amend § 648.95 by revising paragraph (e)(3) to read as follows:

**§ 648.95 Offshore Fishery Program in the SFMA.**

\* \* \* \* \*

(e) \* \* \*

(3) A vessel issued a limited access monkfish Category F permit fishing on a monkfish DAS is subject to the minimum mesh size requirements specified in § 648.91(c)(1)(i), (iii) and (iv), as well as the other gear requirements specified in § 648.91(c)(2) and (3).

\* \* \* \* \*

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